

The Honorable John H. Chun
The Honorable Michelle L. Peterson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM, INC., a Delaware
corporation; and AMAZON.COM SERVICES
LLC, a Delaware limited liability corporation,

Plaintiffs,

v.

Individuals and entities doing business as the
Amazon Brand Registry Account VIVCIC;
and DOES 1-10,

Defendants.

No. 2:23-cv-00486-JCH-MLP

**DECLARATION OF SCOTT
COMMERSON IN SUPPORT OF
PLAINTIFFS' STATUS REPORT AND
REQUEST FOR EXTENSION OF
DEADLINES**

I, Scott R. Commerson, declare and state as follows:

1. I am a partner with the law firm Davis Wright Tremaine LLP, which represents Plaintiffs Amazon.com, Inc. and Amazon.com Services LLC (collectively, "Amazon") in the above-titled litigation. I am over 18 years of age, and the statements made below are true to the best of my knowledge and belief.

2. Amazon, through its prior counsel at Fenwick & West, LLP, previously served Court-authorized subpoenas on the following financial institutions and email service providers in an effort to identify and locate Defendants: Deutsche Bank Trust Company Americas ("Deutsche Bank"), LL Pay U.S., LLC a/k/a LianLian Pay ("LL Pay"), Microsoft Corporation ("Microsoft"), Payoneer Inc. ("Payoneer"), PingPong Global Solutions, Inc. ("PingPong"), and Wells Fargo

1 Bank, N.A. (“Wells Fargo”).

2 3. As discussed in Amazon’s prior status report (Dkt. 19), Amazon, through prior
3 counsel, received (1) responses from Microsoft indicating that they needed at least eight weeks
4 to comply with a subpoena; (2) a response from LL Pay informing Amazon that as a China-based
5 company, it could not produce the requested data due to Chinese security laws and regulations;
6 (3) a response from Wells Fargo that it had no responsive information; (4) a response from
7 Deutsche Bank that it had no responsive information; and (5) a response from First Century
8 Bank, N.A. that it had rejected Amazon’s process server’s attempt to serve the subpoena.
9 Amazon later determined that First Century Bank provides an ACH service to Payoneer and
10 therefore determined that a separate subpoena was not necessary.

11 4. On December 20, 2023, Microsoft objected to the subpoena and has not provided
12 a substantive response.

13 5. On November 13, 2023, Amazon, through prior counsel, received a production
14 from Payoneer with documents responsive to Amazon’s request. Amazon received this
15 production after emailing Payoneer on October 26, 2023, and again on November 13, 2023, in an
16 effort to pursue compliance with the subpoena.

17 6. On October 23, 2023, Amazon’s prior counsel received a response via email from
18 PingPong, indicating that PingPong would process the subpoena in the ordinary course of
19 business. Amazon followed up via email with PingPong on October 30, 2023, and again on
20 November 13, 2023, to check on the status of compliance with the subpoena.

21 7. After our firm substituted in as counsel in January 2024, we continued to follow
22 up with PingPong for documents responsive to Amazon’s subpoena.

23 8. On February 2, 2024, PingPong provided its initial response to the subpoena,
24 which included the name, phone number, and email addresses of a holder of the account
25 identified in the subpoena. PingPong’s initial response did not include the address or country of
26 residence of the account holder.
27

10. Amazon has now reviewed the documents provided by Payoneer and PingPong, who are associated with Defendants' bad actor accounts. However, neither sets of documents included physical addresses where the individuals could be located. Amazon is continuing its investigation to locate a valid address for the identified individuals.

11. Amazon intends to file an Amended Complaint naming as Defendants the individuals that have been identified as the account holders.

12. If Amazon can locate valid physical addresses for the individuals, it may take steps to initiate service on the individuals in China pursuant to the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and Commercial Matters (“Hague Convention”). If Amazon is unable to identify valid physical addresses for the individuals, Amazon intends to file a motion for alternative service.

13. To complete these steps, Amazon is requesting an additional 60 days to file an Amended Complaint, and either file a motion for alternative service or file a status report with the Court advising of the status of service pursuant to the Hague Convention.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 25th day of March, 2024 at Los Angeles, California.


Scott Commerson